

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 6900 OF 2004

Smt.Sudha P. Dangat .. Petitioner

versus

Smt.Zankabai B. Sakla & Ors. .. Respondent

...

Mr.R.S. Datar for the petitioner.

CORAM : D.G. KARNIK, J

DATED : 1st September 2004.

P.C:-

1. Heard the learned counsel for the petitioner.

2. The only ground pressed for possession is default in payment of rent. The respondent tenant had taken the property on rent from Bhimabai Dangat and not from the petitioner. The petitioner claims that she has become the owner of the property by reason of a preliminary decree of partition. The decree has not been executed and partition by metes and bounds has

not taken place.

3. In the circumstances, respondents were right in contending that petitioner is not the owner and landlord of the property to entitle her to the claim the rent. Furthermore, the respondents contended that the rent was paid to the landlady who had initially let out the suit property, by cheque. He could not produce the evidence about the encashment of the cheque by the landlady but that is the matter between the landlord who had let out the property and the respondents who paid the rent by cheque. The first appellate Court has therefore, rightly refused to pass a decree.

4. Petition rejected.

D.G. KARNIK, J